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UNITED STATES DEPARTMENT OF TRANSPORTATION
OFFICE OF HEARINGS
WASHINGTON, D.C.

DEPT. OF TRANSPORTATION
DOCKETS

2004 DEC -8 P 2:13

IN THE MATTER OF

WILLIAMSON TRANSPORT CO., INC.

DOCKET NO. FMCSA-2004-17247-50
(Federal Motor Carrier Safety Administration)

RENEWED SECOND MOTION TO ADMIT EVIDENCE

COMES NOW, Williamson Transport Co., Inc. (hereinafter "Respondent"), through the undersigned, and hereby files this Renewed Second Motion to Admit Evidence based on the following facts:

1. On November 8, 2004, Respondent served parties with its Second Motion to Admit Evidence with a supporting Affidavit from William D. Herster in conformance with 49 C.F.R. § 386.49.
2. On November 10, 2004, this motion was filed on the U.S. Docket Management System (See Docket No. FMCSA-2003-17247-47).
3. According to the Rules of Practice, the Agency had seven days to respond, plus an additional five days added for delivery by mail. This placed the due date for response to the Dockets on or before November 22, 2004. See 49 C.F.R. §386.35 (Response due seven days after service) and §386.32(c) (3) (additional fives allowed for mailing).¹

¹ See also *In the Matter of Thomas Hammond*, Docket No. FMCSA-2003-15980 Order, p.1 (September 24, 2003).

4. According to no entries to the docket and no service on Respondent's attorney, it is safe to assume that Agency counsel has chosen not to respond to Respondent's Second Motion to Admit Evidence.
5. Accordingly, said motion is not opposed and should be summarily granted by the Court, hearing no objection.
6. Enclosed are true and correct copies of Respondent's Pre-marked Exhibits as revised.² Agency counsel was served with these documents previously and under separate cover.

Respondents Pre-marked Exhibits as Revised:

- Exhibit 1:** DOT Inspector General's Memorandum, Report on Investment Review Board Deliberations on MCMIS, June 29, 2004.
- Exhibit 2:** American Trucking Associations' *Transport Topics* article on Motor Carrier Management Information System (MCMIS) Data Quality State Map.
- Exhibit 3:** *In the Matter of Allometrics*, Final Order (FHWA-1997-2488, March 10, 2003).
- Exhibit 4:** Motor Carrier Safety Improvement Act (MCSIA) of 1999 (Pub L. 106-159).
- Exhibit 5:** U.S. Congress Committee Report on MCSIA (Pub. L. 106-159).
- Exhibit 6:** U.S. Court of Appeals Decision on Hours of Service.
- Exhibit 7:** FMCSA's Response to Request for Admissions.
- Exhibit 8:** FMCSA's Response to Request for Documents.
- Exhibit 9:** FMCSA's Response to Interrogatories.
- Exhibit 11:** Interim Final Rule – New Entrant Program (67 Fed. Reg. 31978).

² This revised exhibit list is different than the list previously provided to the Court and conforms to the Court's instructions that Respondent's Exhibits be marked numerically and Government's Exhibits marked alphabetically, except for Respondent's Exhibit R-F marked and admitted during the August 2-3, 2004 hearing.

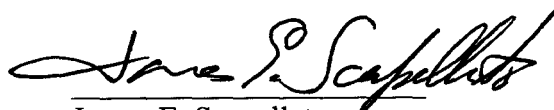
- Exhibit 12:** Field Operations Training Manual – Volume II – August 1, 2002 (FOIA Version).
- Exhibit 13:** Field Operations Training Manual – Volume III – August 1, 2002 (FOIA Version).
- Exhibit 15:** Williamson Transport's DataQ Petition to remove data from SafeStat.
- Exhibit 16:** FMCSA's Proposed Unsatisfactory Rating letter, October 22, 2003.
- Exhibit 18:** Williamson Transport's letter to FMCSA's Shirley McGuire, October 14, 2003.
- Exhibit 19:** FMCSA's letter to Williamson Transport registration to operate as a new entrant, May 21, 2003.
- Exhibit 22:** Internal Revenue's Assignment of IRS Employee Identification Number.
- Exhibit 23:** NC Department of Motor Vehicle's Registration Card and Wilson County Tax and Property Statements.
- Exhibit 24:** NC State Highway Patrol's Inspection of Williamson Produce Co. Farm Vehicle conducted by C.L. Pope, dated September 22, 2003.
- Exhibit 27:** U.S. Senate Bill 1072 Excerpts.
- Exhibit 29:** FMCSA's SafeStat Results (5-21-04).
- Exhibit 30:** FMCSA's Position Description for Assistant Administrator/Chief Safety Officer (1-7-03).
- Exhibit 32:** Declaration of Investigator Dennis Melsopp, executed on December 1, 2003.
- Exhibit 33:** Declaration of Investigator Dennis Melsopp, executed on June 22, 2004.
- Exhibit 38:** DOT Inspector General's Report No. MH-2004-034, February 13, 2004, Improvements Needed in SafeStat.
- Exhibit 39:** *Trinity Transportation, Inc.*, ALJ Decision (1991 WL 11034187).
- Exhibit 40:** MCSAP Roadside Inspections.

Exhibit 42: Deposition of Jerry L. Cooper, Southern Field Administrator
(Sealed Original).

Exhibit 43: *New York v. National Services Industries, Inc.*, 352 F.3d 682 (2nd
Cir. 2003).

WHEREFORE, in consideration of this renewed Motion and no opposition raised by opposing counsel, Respondent respectfully moves this Court to admit into evidence each of Respondent's Exhibits as pre-marked, identified above and served upon this Court through U.S. Dockets.

Respectfully submitted this 12th day of December 2004.



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CERTIFICATE OF SERVICE

This is to certify that on this 4th day December 2004, the undersigned express mailed, as specified herein, a copy of Williamson Transport Co., Inc. (Respondent's) Renewed Second Motion to Admit Evidence, including Exhibits pre-marked to the persons listed below. (Note: Respondent's Exhibits previously provided to Ms. Stanziano in separate mailing)

Docket No: FMCSA-2004-17247

U.S. DOT Dockets
U.S. Department of Transportation
400 Seventh Street, S.W. Room PL-401
Washington, DC 20590
Tel: 202-366-9317

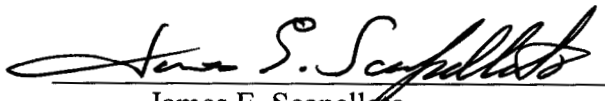
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12/4/04

Hon Richard C. Goodwin
Administrative Law Judge
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U.S. Department of Transportation
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